



ATTORNEY GENERAL OF TEXAS  
G R E G   A B B O T T

July 8, 2004

Ms. Lynn Rossi Scott  
Bracewell & Patterson, L.L.P.  
500 North Akard Street, Suite 4000  
Dallas, Texas 75201-3387

OR2004-5584

Dear Ms. Scott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 204766.

The Grand Prairie Independent School District (the "district"), which you represent, received a request for intranet e-mails that "originated from [the requestor] to [a named individual] and board members . . . to determine who forwarded the letter to [a district employee and] to see where the trail led from [that employee]." The district received a second request from the same requestor for a specified letter. You state, and the submitted information indicates, that the requestor already possesses part of the information responsive to the first request. You claim that the remaining information responsive to the first request is not subject to the Public Information Act (the "Act"). You also claim that the remaining submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that, in reference to the first request, it appears you have submitted only those intranet e-mails that were submitted to you by the requestor along with her request. To the extent additional intranet e-mails responsive to this request exist, we assume that you have released them to the requestor. If you have not released any such information, you must release it to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You also interpret the first request to include “routing information” for the responsive intranet e-mails. However, you assert that this information is not subject to the Act under Open Records Decision No. 581 (1990). In Open Records Decision No. 581, this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. Based on your representations and our review, we determine that the e-mail routing information you have described has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property and therefore does not constitute public information under section 552.002 of the Government Code. Accordingly, this information is not subject to the Act and need not be released.<sup>1</sup>

You assert that the submitted letter is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information protected by other statutes. Section 21.355 of the Education Code provides, “A document evaluating the performance of a teacher or administrator is confidential.” This office interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). In that opinion, this office also determined that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of the evaluation. *Id.* Similarly, an administrator is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is serving as an administrator at the time of the evaluation. *Id.*

Upon review of your arguments and the information at issue, we find that the submitted letter does not constitute the type of record made confidential by section 21.355. We therefore determine that the district may not withhold the submitted letter under section 552.101 in conjunction with section 21.355 of the Education Code. As you claim no other exceptions to disclosure for this information, it must be released to the requestor.

In summary, e-mail routing information is not public information and therefore not subject to the Act. The district must release the submitted letter and any additional responsive intranet e-mails to the requestor.

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<sup>1</sup>As we are able to make this determination, we do not address your argument under section 552.137 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Peterson", with a stylized flourish at the end.

Amy D. Peterson  
Assistant Attorney General  
Open Records Division

ADP/sdk

Ref: ID# 204766

Enc. Submitted documents

c: Ms. Karen Wiegman  
3729 Green Hollow  
Grand Prairie, Texas 75052  
(w/o enclosures)